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16 JEFF BARDZIK

17 SUPERIOR COURT OF THE STATE OF CALIFORNIA

18 FOR THE COUNTY OF LOS ANGELES

19 JEFF BARDZIK

20 Plaintiff,

21 vs.

22 COUNTY OF ORANGE COUNTY,
23 ORANGE COUNTY SHERIFF'S
24 DEPARTMENT, MICHAEL
25 CARONA, Does 1-10

26 Defendants.

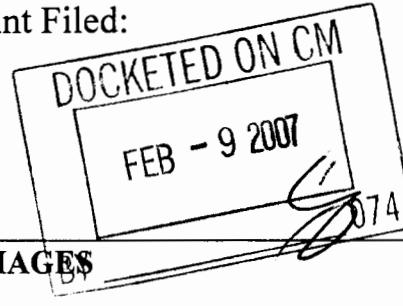
27) Case No.: SACV07-0141JVS (RNB)
28) (Honorable)

29 **COMPLAINT FOR DAMAGES**

30 1. **VIOLATION OF 42 U.S.C.**
31 **§1983 (FREE SPEECH)**
32 2. **VIOLATION OF 42 U.S.C.**
33 **§1983 (DUE PROCESS)**
34 3. **VIOLATION OF 42 U.S.C.**
35 **§1983 (MONELL CLAIM -**
36 **FREE SPEECH)**
37 4. **VIOLATION OF 42 U.S.C.**
38 **§1983 (MONELL CLAIM -**
39 **DUE PROCESS)**

40 **REQUEST FOR JURY TRIAL**

41 Complaint Filed:



44 **FILED**

45 2007 FEB - 6 AM 10:02

46 BY
47 CLERK OF THE SUPERIOR COURT
48 OF THE STATE OF CALIF.
49 CENTRAL DISTRICT OF CALIFORNIA
50 LOS ANGELES

2/6/2007 10:19:23 AM Receipt #: 92869
Cashier : ABELLAMY [LA 1-1]
Paid by: L/O OF RANDY RENICK
8:CV07-00151
2007-086900 5 - Civil Filing Fee(1)
Amount : \$60.00
8:CV07-00151
2007-510000 11 - Special Fund F/F(1)
Amount : \$190.00
8:CV07-00151
2007-086400 Filing Fee - Special(1)
Amount : \$100.00
Check Payment : 1668 / 350.00

I. INTRODUCTION

Plaintiff Jeff Bardzik brings this action against Defendants for: general, compensatory, injunctive, punitive and statutory damages; costs; attorneys' fees; and other appropriate and just relief resulting from Defendants' unlawful and tortious conduct, and as grounds therefore alleges:

PARTIES

1. Plaintiff Jeff Bardzik is an individual who at all times relevant herein has resided in the County of Orange, State of California.

2. Defendant County of Orange conducts business within the County of Orange, State of California

3. Defendant Orange County Sheriff's Department (hereafter "Sheriff's Department") conducts business within the County of Orange, State of California.

4. Defendant Michael Carona (hereafter "Carona") is an individual who at all times

relevant herein has worked within the County of Orange, State of California.

FACTUAL ALLEGATIONS

5. Jeff Bardzik has been a sworn member of the Orange County Sheriff's Department for 22 years, since graduating as Class President of his Academy class in 1984. After receiving a medal of courage and working as the Department Safety and Tactics Instructor and in the Gang Enforcement Team as a Deputy, he was promoted in 1994 to Sergeant. As a Sergeant, he was twice selected to serve as an Academy Tactical Sergeant where he was responsible for the development and training of police recruits. In April 2003, Bardzik was promoted to Lieutenant and was assigned as the Orange County Harbor Court Operations Facility Commander.

6. In 1998, Michael Carona was elected Orange County Sheriff. Almost immediately after the election, Carona appointed 86 political allies, campaign

1 contributors, friends and relatives as Orange County Sheriff Reserves. The
 2 political appointees were given badges, authorized to make arrests and in most
 3 cases allowed to carry guns and/or concealed weapons. Many of the Reserves
 4 Carona appointed did not have the background or training required for the
 5 position.

6 7. On July 1, 1999, shortly after the Reserve appointments, state
 7 legislation went into effect significantly increasing the training required to become
 8 a Reserve and as a result, California's Commission on Peace Officer Standards
 9 and Training (hereafter "POST") refused to recognize Carona's 86 Reserve
 10 appointees as Certified Peace Officers, a certification required to make arrests and
 11 carry guns.

12 8. As a result of the lack of background investigation and training of the
 13 appointees, there was a wealth of problems with the Reserves. Some of Carona's
 14 appointees lied about their criminal and drug history and their lack of training.
 15 Others abused their authority using their guns and badges to intimidate civilians.

16 9. In November 2003, Carona asked Bardzik to take command of the
 17 Reserve Division, clean it up and bring it back to respectability, telling Bardzik he
 18 was selected because of his reputation for making ethical decisions. Carona told
 19 Bardzik to "get rid of the dead wood," assured him there were "no sacred cows,"
 20 told him to make sure it is not a "badge and gun club" and to "run it like every
 21 other division." From November 2003, through June 2004, Bardzik and Captain
 22 Tom Twellman conducted an Audit of the entire Reserve Division, reported illegal
 23 past practices and recommended numerous changes, including a written
 24 recommendation that non-POST qualified Reserves not be allowed to serve as full
 25 fledged Reserves. The Audit resulted in a lengthy and detailed report.

26 10. Bardzik received a May 3, 2004 letter of commendation for his work
 27 on the Audit from Captain Twellman thanking him for his "hard work,"

1 “dedication” and “commitment to the success of this project.” Moreover, Carona’s
 2 January 1, 2005 “state of the department” memo to all Orange County Sheriff’s
 3 Department praised Bardzik’s decentralization of the Reserves as one of the
 4 “highlights of the year.”

5 11. Bardzik reported to the Sheriff’s Department that many of Carona’s
 6 appointees continued to lack POST certification, yet continued to carry guns and
 7 badges. In October 2004, Bardzik submitted a written recommendation to Carona
 8 that the Reserves he appointed no longer serve as official Reserves and that their
 9 status be changed to PSRs, non-sworn volunteers. Shortly thereafter, Bardzik
 10 advised Carona that California Penal Code §538d applied to the Sheriff’s actions,
 11 which makes it a misdemeanor to issue a badge to a non-sworn member “which so
 12 resembles the authorized badge of a police officer . . . as would deceive an
 13 ordinary, reasonable person.” Bardzik informed Carona that County Counsel had
 14 come to the same conclusion and that he refused to participate in any future
 15 issuing of inappropriate law enforcement badges to the PSRs. Carona told
 16 Bardzik, “look me in the eye when I tell you this Lieutenant, I don’t give a shit
 17 about §538d and I don’t give a shit about County Counsel. I’m going to change
 18 the law.”

19 12. In May 2005, Reserves were asked to turn in their badges and IDs if
 20 they had not complied with the Department requirements, including Carona’s
 21 friends, supporters and contributors. Some of these individuals were upset and
 22 advised Carona as much, including writing letters to both Carona and Bardzik
 23 pointing out they were financial supporters of Carona and complaining about the
 24 treatment they were receiving. On May 25, 2005, Bardzik reported to his
 25 supervisor that he had been approached by a Captain who requested, on behalf of
 26 Carona, that Bardzik promote three Reserves in violation of the Reserve Division
 27 promotion protocol because these Reserves were important supporters of Carona.

1 This Reserve Division promotional protocol had been implemented by Bardzik
 2 after he became Reserve Division Commander to replace the system of favoritism
 3 that was in use before.

4 13. On May 15, 2005, Captain Murray of the Orange County Sheriff's
 5 Department called Bardzik and informed him that she was going to mail Bardzik a
 6 Carona campaign contribution envelope and that he should mail it back with \$100
 7 so that he could be included on a list of Carona's Department supporters to be
 8 published in the Orange County Register. Captain Murray informed Bardzik that
 9 she was calling all Captains and Lieutenants in the Department to do the same.

10 14. Bardzik felt pressured by the call from one of his commanding
 11 officers demanding a campaign contribution to Carona, and on May 25, 2005,
 12 Bardzik reported to his supervisor at the time, Assistant Sheriff Pete Gannon, that
 13 Murray was his ranking superior and that "her method of questioning me
 14 regarding who I will financially support in an election over one year away is
 15 unseemly. Her insistence and pressure to decide now or otherwise be excluded
 16 from a published list is coercive and suggests one is disloyal or will be discounted
 17 if they choose to remain politically neutral." He pointed out that although Murray
 18 told him that Carona did not know that she was doing this that it could be picked
 19 up by the media and "perceived as coercion." Over the next couple months,
 20 throughout May and June of 2005, various friends and supporters of Carona
 21 advised Bardzik that he needed to publicly support Carona for reelection.

22 15. In September 2005, Bardzik was asked to look into the politically
 23 sensitive issue of Carona's legal restriction against soliciting campaign
 24 contributions from individuals serving as Orange County Sheriff Reserves. On
 25 September 7, 2005, PSR leadership President Jim Palmer, another close political
 26 ally of Carona, asked Bardzik whether Reserves are considered "employees" of the
 27 Orange County Sheriff's Department for purposes of California Government Code

1 §3205. Section 3205 criminalizes solicitations of political contributions by a
 2 candidate for elective office of a local agency from employees of that agency.
 3 Palmer asked Bardzik if he could “get an educated opinion” on whether Reserves
 4 were considered employees under that statute. Bardzik immediately contacted
 5 Senior Deputy County Counsel Barbara Stocker on the subject, who replied that
 6 “that is the legal question of the year.” If Reserves were considered County
 7 employees, § 3205 would preclude them from making contributions to Carona’s
 8 reelection campaign.

9 16. Senior Deputy County Counsel Barbara Stocker informed Bardzik on
 10 September 8, that while she was unsure if the Reserves were considered
 11 employees under Government Code §3205, they were considered employees for
 12 workers’ compensation issues. Stocker advised Bardzik that ignoring this issue
 13 could have “huge ramifications” and recommended that all Reserves and the
 14 Sheriff “abide by §3205.” Stocker informed Bardzik and that she would email him
 15 something on the subject. Bardzik was concerned that the Reserves were being
 16 placed in a precarious situation and informed his superior officer, Assistant Sheriff
 17 Kim Markuson that he intended to inform the Reserves of County Counsel’s
 18 opinion. Markuson instructed Bardzik to immediately write a memo to all 600+
 19 members of the Reserve Division advising them of the situation and to include the
 20 information County Counsel was emailing him.

21 17. On September 8, 2005, as Bardzik was writing the memo to the
 22 Reserves as instructed, Markuson called him and told him that the Sheriff had just
 23 called from out of state and was “furious” because he had heard what Bardzik had
 24 discovered about §3205, what County Counsel had recommended and that Bardzik
 25 was going to inform all of the Reserves about the situation. Markuson instructed
 26 Bardzik not to tell the Reserves about the possible applicability of Government
 27 Code §3205 to them and never to contact County Counsel directly again. Despite
 28

1 the fact that he had contacted County Counsel on numerous occasions on various
 2 subjects before without any problems, Bardzik was told that he had to go through
 3 his commanding officer before contacting County Counsel in the future.

4 18. Frustrated with Carona's failure to clean up the Reserve Department,
 5 Carona's failure to lead the department in an ethical and law-abiding fashion, and
 6 Carona's campaign compromising the integrity of the Department, Bardzik chose
 7 to support Carona's opponent, Lt. Bill Hunt, in the 2006 election for Orange
 8 County Sheriff. In approximately May or June of 2005, Bardzik's name appeared
 9 on a published list of Department members who supported Hunt for Sheriff.
 10 Immediately thereafter, Carona initiated a campaign of retaliation against many on
 11 the list, including Lt. Bardzik.

12 19. In July 2005, a Reserve Captain and close friend of Carona, John
 13 Hensley, told Bardzik that he had gone out to dinner with Carona the night before
 14 and that Carona had told him, "tell Bardzik he should resign." In August 2005,
 15 Bardzik finally met with Carona to discuss Carona's demand that he resign. In
 16 this meeting, Carona confirmed that Bardzik should resign and told Bardzik that
 17 "the Bill Hunt thing didn't help" and that "you know where you were going in this
 18 Department." As Bardzik was leaving the meeting, Carona told him, "remember,
 19 Lieutenant, you brought this on."

20 20. Prior to the public disclosure of Bardzik's support of Carona's
 21 political opponent, Bardzik's hard work and dedication had been hailed his
 22 supervisors, including Carona. For example, in Bardzik's annual review for the
 23 time period of December 2003 to December 2004, Assistant Sheriff Gannon rated
 24 him "Superior," the highest possible score. In the review, Gannon also praised
 25 Bardzik for his "excellent job" as Division Commander and wrote that "I have
 26 every confidence he will continue his commitment to his present assignment [as
 27 Reserve Division Commander]. I consider Jeff an asset to the Department and I

1 feel he would make a great candidate for Captain when the opportunity arises.”
 2 Later when Carona recruited Captain Tom Twellman to be Assistant Sheriff of the
 3 Reserve Division, Twellman repeatedly informed Carona that he would consider
 4 the position “only if Jeff Bardzik remained in the Reserve Division, as a Captain.”

5 21. In response to Lt. Bardzik’s support of Carona’s political opponent,
 6 on September 23, 2005, Bardzik was transferred out of the Reserve division to
 7 Court Operations in Fullerton, one of the least desirable Lieutenant’s assignment
 8 in the entire Orange County Sheriff’s Department and the furthest from Bardzik’s
 9 residence, a retaliatory practice in the Orange County Sheriff’s Department known
 10 as “freeway therapy.”

11 22. In retaliation for having supported Hunt, Carona made sure that Lt.
 12 Bardzik would never be promoted. Prior to Carona learning of Lt. Bardzik’s
 13 support for Hunt, Lt. Bardzik had been told that he would receive a promotion to
 14 Captain. Bardzik applied for Captain’s position on February 7, 2005 and in April,
 15 he was one of only five Lieutenants invited by Carona to interview for the
 16 position. At the time Bardzik was the Commander of the Reserve Division and at
 17 the interview, Carona asked, “don’t you think the Reserve Division Commander
 18 position should be a Captain?”

19 23. Assistant Sheriffs Gannon and Galisky reported back to Bardzik
 20 about his interview with Carona. Gannon said Bardzik’s interview had been
 21 “excellent” and should result in his promotion to Captain. Galisky said the same,
 22 adding that the Sheriff ranks each candidate against the others in various
 23 categories and had ranked Bardzik highest of all the candidates in at least one
 24 category. Galisky told Bardzik that the most important category for Carona was
 25 “loyalty” and that he had ranked Bardzik first out of all of the candidates in
 26 “loyalty.” As a result of Bardzik’s support for Hunt, he was passed over for that
 27 promotion and at least five subsequent promotions for Captain.

1 24. In December 2005, Carona continued his campaign of retaliation
 2 against Bardzik by denying him a pay raise that went to every other eligible
 3 Lieutenant with the exception of Bill Hunt. Of the seven Lieutenants assigned to
 4 Court Operations Division, every one of them received a pay raise except Bardzik.
 5 Senior Department members informed Bardzik that he was not getting the raise in
 6 retaliation for his previous actions. Moreover, not only was Bardzik denied a
 7 promotion to Captain along with the commensurate increase in salary, benefits and
 8 retirement, but the retaliatory transfer to Court Operations resulted in a loss of
 9 holiday and overtime work for Bardzik. After supporting Hunt, Bardzik received
 10 the first negative evaluation of his entire career.

11 25. Carona's campaign of retaliation also included the fabrication of
 12 wrongdoing against Bardzik resulting in Internal Affairs ("IA") investigations. On
 13 one occasion, Carona and his staff fabricated the allegation that Bardzik had
 14 leaked department information to the Los Angeles Times and ordered an IA
 15 investigation of Bardzik. After a year the Department finally found the allegations
 16 "not sustained." In response to Bardzik's complaint that the allegations against
 17 him were fabricated by Carona and his staff, the Department refused to conduct a
 18 complete or adequate investigation.

19 26. After Carona defeated Hunt, Carona initiated a second retaliatory and
 20 unfounded investigation, this time accusing Bardzik of engaging in illegal or
 21 unethical campaign activities in the workplace. Despite the fact that there is no
 22 substance to the fabricated allegations, the matter remains under investigation by
 23 the Department's Internal Affairs division.

24 27. Carona's retaliation also included preventing Bardzik from obtaining
 25 the positions of Dana Point and San Clemente Chief of Police. Bardzik submitted
 26 his application for the Dana Point position on November 16, 2006 and was almost
 27 immediately advised that Carona had decided that he would not be permitted to

1 apply for the position. He was given no explanation.

2 28. Bardzik is qualified for the position and has been advised by high
 3 ranking officials that he "would be an excellent fit" for the job. Indeed, he would
 4 have been the best candidate as the City of Dana Point rejected the first four
 5 applicants proposed by the Sheriff. Nonetheless, without explanation or the
 6 authority of any law or regulation to support his actions, Carona prevented
 7 Bardzik from even interviewing for the position while allowing other less
 8 qualified officers to do so.

9 29. Carona also refused to allow Bardzik to apply for the San Clemente
 10 Chief of Police position, a position for which he is also well qualified. The
 11 position was posted on January 11, 2007, with applications to be accepted until
 12 January 25. Bardzik submitted his application on January 22 but was informed on
 13 January 26, 2007 that he would not be allowed to interview for the job.

14 **FIRST CAUSE OF ACTION**

15 **(VIOLATION OF 42 U.S.C. §1983 (FREE SPEECH))**

16 **(Against Defendant Orange County Sheriff Michael Carona in His Individual
 17 and Official Capacity and Does 1-10)**

18 30. Plaintiff realleges and incorporates by reference each and every
 19 allegation contained in paragraphs 1 - 29, as though fully set forth herein.

20 31. In perpetrating the above described acts and omissions, the County of
 21 Orange and the Orange County Sheriff's Department were, at all relevant times
 22 herein, California entities and defendant Michael Carona, and Does 1-10 were, at
 23 all relevant times herein, its agents/employees. Thus, defendants' above-described
 24 acts and omissions constitute cognizable state action under color of state law.

25 32. In perpetrating the above-described acts and failures to act, the
 26 defendants, and each of them, engaged in a pattern, practice, policy, tradition
 27 and/or custom of restraining plaintiffs' free speech on a matter of public concern

1 and harassing and retaliating against them because of such speech, in violation of
 2 the First Amendment to the United States Constitution and the California
 3 Constitution. Because rights under the federal and state Constitutions are
 4 federally protected, Defendants also violated plaintiffs' rights under 42 U.S.C.
 5 §1983.

6 33. At all relevant times herein, there existed within County of Orange
 7 and/or the Orange County Sheriff's Department a pattern, policy, practice,
 8 tradition, custom, and usage of harassment and retaliation against employees who
 9 engage in speech on a matter of public concern, which resulted in a deliberate
 10 indifference to plaintiffs' right to free speech.

11 34. As more particularly alleged above, Defendants violated Bardzik's 1st
 12 Amendment right to free speech by retaliating against him for his support of
 13 Sheriff Carona's 2006 election opponent, refusal to support Sheriff Carona in that
 14 race.

15 35. As the direct and legal result of Defendants' unlawful conduct,
 16 Bardzik has suffered and will continue to suffer reasonable, foreseeable and
 17 ascertainable damages, including but not limited to, loss of earnings and other
 18 employment benefits, emotional distress, anxiety, embarrassment, humiliation,
 19 loss of self-esteem, depression, and attorney's fees. Plaintiffs are thereby entitled
 20 to general and compensatory damages in amounts to be proven at trial.

21

22 **SECOND CAUSE OF THE ACTION**

23 **(VIOLATION OF 42 U.S.C. §1983 (DUE PROCESS))**

24 **(Against Defendant County of Orange Sheriff Michael Carona in His
 25 Individual and Official Capacity and Does 1-10)**

26 36. Plaintiff realleges and incorporates by reference each and every
 27 allegation contained in paragraphs 1 - 36, as though fully set forth herein.

28

1 37. In perpetrating the above described acts and omissions, the County of
2 Orange and the Orange County Sheriff's Department were, at all relevant times
3 herein, California entities and defendant Michael Carona, and Does 1-10 were, at
4 all relevant times herein, its agents/employees. Thus, defendants' above-described
5 acts and omissions constitute cognizable state action under color of state law.

6 38. In perpetrating the above-described acts and failures to act, the
7 defendants, and each of them, engaged in a pattern, practice, policy, tradition
8 and/or custom of failing to provide plaintiffs their due process in violation of the
9 Fifth and Fourteenth Amendments to the United States Constitution. Because
10 rights under the federal Constitution are federally protected, defendants also
11 violated plaintiffs' rights under 42 U.S.C. §1983.

12 39. At all relevant times herein, there existed within County of Orange
13 and/or the Orange County Sheriff's Department a pattern, policy, practice,
14 tradition, custom, and usage of harassment and retaliation against employees who
15 engage in speech on a matter of public concern, which resulted in a deliberate
16 indifference to plaintiffs' Fifth and Fourteenth Amendment rights.

17 40. As a result of the acts and failures to act as alleged herein, and as a
18 result of the County's customs, traditions, usages, patterns, practices, and policies,
19 plaintiff was deprived of his constitutional rights to due process, and suffered
20 damages caused thereby as more particularly alleged above.

21 41. As the direct and legal result of Defendants' unlawful conduct,
22 Bardzik has suffered and will continue to suffer reasonable, foreseeable and
23 ascertainable damages, including but not limited to, loss of earnings and other
24 employment benefits, emotional distress, anxiety, embarrassment, humiliation,
25 loss of self-esteem, depression, and attorney's fees. Plaintiffs are thereby entitled
26 to general and compensatory damages in amounts to be proven at trial.

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THIRD CAUSE OF ACTION
(VIOLATION OF 42 U.S.C. §1983)
(MONELL CLAIM - FREE SPEECH)

(Against Defendants County of Orange and the Orange County Sheriff's Department)

42. Plaintiff realleges and incorporates by reference each and every allegation contained in paragraphs 1 - 42, as though fully set forth herein.

43. In perpetrating the above described acts and omissions, the County of Orange and the Orange County Sheriff's Department were, at all relevant times herein, California entities and defendant Michael Carona, and Does 1-10 were, at all relevant times herein, its agents/employees. Thus, defendants' above-described acts and omissions constitute cognizable state action under color of state law.

44. In perpetrating the above-described acts and failures to act, the defendants, and each of them, engaged in a pattern, practice, policy, tradition and/or custom of restraining plaintiffs' free speech on a matter of public concern and harassing and retaliating against them because of such speech, in violation of the First Amendment to the United States Constitution and the California Constitution. Because rights under the federal and state Constitutions are federally protected, defendants also violated plaintiffs' rights under 42 U.S.C. §1983.

45. At all relevant times herein, there existed within County of Orange and/or the Orange County Sheriff's Department a pattern, policy, practice, tradition, custom, and usage of harassment and retaliation against employees who engage in speech on a matter of public concern, which resulted in a deliberate indifference to plaintiffs' right to free speech.

46. As more particularly alleged above, Defendants violated Bardzik's 1st Amendment right to free speech by retaliating against him for his support of

1 Sheriff Carona's 2006 election opponent, refusal to support Sheriff Carona in that
2 race.

3 47. The acts set forth herein constitute a policy, practice, or custom of
4 ordering, ignoring, encouraging, causing, tolerating, sanctioning, and/or
5 acquiescing in the violation by County personnel of the constitutional rights of
6 employees to free speech on matters of public concern and due process.

7 48. The acts and failures to act as alleged herein also result from a
8 custom, practice or policy of inadequate training in a deliberate indifference to the
9 rights of employees who speak out on matters of public concern, and the injuries
10 suffered by plaintiff as alleged herein were caused by such inadequate training.

11 49. Defendants, and each of them, exhibited deliberate indifference to the
12 violation of plaintiffs' protected speech and due process rights by failing to
13 investigate their complaints or provide them with protection from harassing and
14 retaliatory conduct.

15 50. Defendants, and each of them, are policy-makers for defendant
16 County of Orange. The acts and failures to act as alleged herein were done
17 pursuant to policies and practices instituted by these defendants pursuant to their
18 authority as policy-makers for the County of Orange.

19 51. As the direct and legal result of Defendants' unlawful conduct,
20 Bardzik has suffered and will continue to suffer reasonable, foreseeable and
21 ascertainable damages, including but not limited to, loss of earnings and other
22 employment benefits, emotional distress, anxiety, embarrassment, humiliation,
23 loss of self-esteem, depression, and attorney's fees. Plaintiffs are thereby entitled
24 to general and compensatory damages in amounts to be proven at trial.

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FOURTH CAUSE OF ACTION
(VIOLATION OF 42 U.S.C. §1983)
(MONELL CLAIM - DUE PROCESS)

(Against Defendants County of Orange and the Orange County Sheriff's Department)

52. Plaintiff realleges and incorporates by reference each and every allegation contained in paragraphs 1 - 52, as though fully set forth herein.

8 53. In perpetrating the above described acts and omissions, the County of
9 Orange and the Orange County Sheriff's Department were, at all relevant times
10 herein, California entities and defendant Michael Carona, and Does 1-10 were, at
11 all relevant times herein, its agents/employees. Thus, defendants' above-described
12 acts and omissions constitute cognizable state action under color of state law.

13 54. In perpetrating the above-described acts and failures to act, the
14 defendants, and each of them, engaged in a pattern, practice, policy, tradition
15 and/or custom of failing to provide plaintiff his due process in violation of the
16 Fifth and Fourteenth Amendments to the United States Constitution. Because
17 rights under the federal and state Constitutions are federally protected, defendants
18 also violated plaintiffs' rights under 42 U.S.C. §1983.

19 55. At all relevant times herein, there existed within County of Orange
20 and/or the Orange County Sheriff's Department a pattern, policy, practice,
21 tradition, custom, and usage of depriving employees of their Fifth and Fourteenth
22 Amendment rights to due process.

23 56. As more particularly alleged above, Defendants violated Bardzik's
24 Fifth and Fourteenth Amendment rights to due process by retaliating against him
25 for his support of Sheriff Carona's 2006 election opponent, refusal to support
26 Sheriff Carona in that race.

27 57. The acts set forth herein constitute a policy, practice, or custom of

1 ordering, ignoring, encouraging, causing, tolerating, sanctioning, and/or
2 acquiescing in the violation by City personnel of the constitutional rights of due
3 process.

4 58. The acts and failures to act as alleged herein also result from a
5 custom, practice or policy of inadequate training in a deliberate indifference to the
6 rights of employees who speak out on matters of public concern, and the injuries
7 suffered by plaintiff as alleged herein were caused by such inadequate training.

8 59. Defendants, and each of them, exhibited deliberate indifference to the
9 violation of plaintiffs' protected speech and due process rights by failing to
10 investigate their complaints or provide them with protection from harassing and
11 retaliatory conduct.

12 60. Defendants, and each of them, are policy-makers for defendant
13 County of Orange. The acts and failures to act as alleged herein were done
14 pursuant to policies and practices instituted by these defendants pursuant to their
15 authority as policy-makers for the County of Orange.

16 61. As the direct and legal result of Defendants' unlawful conduct,
17 Bardzik has suffered and will continue to suffer reasonable, foreseeable and
18 ascertainable damages, including but not limited to, loss of earnings and other
19 employment benefits, emotional distress, anxiety, embarrassment, humiliation,
20 loss of self-esteem, depression, and attorney's fees. Plaintiffs are thereby entitled
21 to general and compensatory damages in amounts to be proven at trial.

22

23 **PRAYER FOR RELIEF**

24 WHEREFORE, Plaintiff requests the following judgment and relief:

25 1. For compensatory damages including economic losses, lost wages,
26 vacation and retirement benefits, medical bills, mental and emotional
27 distress, and other special and general damages according to proof but

28

1 in excess of the jurisdictional threshold of this Court;

2 2. For an award of interest, including pre-judgment interest, at the legal

3 rate;

4 3. For reasonable attorneys' fees pursuant to 42 U.S.C. §1988,

5 California Code of Civil Procedure §1021.5, and any other

6 appropriate statutes;

7 4. For punitive damages against the individual defendant;

8 5. For costs of suit incurred herein;

9 6. For a jury trial on all issues so triable;

10 7. For injunctive relief; and

11 8. For such other and further relief as this Court may deem just and

12 proper.

JURY TRIAL DEMAND

Plaintiff hereby demands a jury trial on all issues so triable.

18 DATED: February 6, 2007

Respectfully submitted,

Law Offices of Randy Renick

BY Randy Renick
Attorney for Plaintiff
Jeff Bardzik